

Michael J. Schneider
Law Offices of Michael J. Schneider, P.C.
880 "N" Street, Suite 202
Anchorage, AK 99501
(907) 277-9306 - phone
(907) 274-8201 - fax

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

OMAR STRATMAN,)
)
Plaintiff,)
)
v.)
)
LEISNOI, INC., KONIAG, INC., and)
DIRK KEMPTHORNE, Secretary of the)
Interior,)
)
Defendants,)
)
_____)
)
KONIAG, INC.,)
)
Counter-claimant,)
)
v.)
)
OMAR STRATMAN,)
)
Counter-claimed)
Defendant.)
_____)

Case No.: 3:02-cv-0290 (JKS)

**PROPOSED ORDER DENYING LEISNOI'S MOTIONS TO DISMISS AT DOCKET
NOS. 109 AND 110 (ADMINISTRATIVE FINALITY/COLLATERAL ESTOPPEL)**

The Court having considered the briefs and arguments of the parties and being otherwise fully advised in the premises, does hereby ORDER, ADJUDGE, and DECREE

as follows:

1. Leisnoi's motion seeking dismissal of Mr. Stratman's APA claims on the basis of administrative finality and collateral estoppel (Dockets 118 and 119) is DENIED.
2. The Court has previously ruled against Leisnoi on identical grounds. See A76-132 CV (JKS), Docket 292, pp. 1-2. The administrative proceedings relied upon by Leisnoi in its motion either fail to involve Mr. Stratman as a party, fail to decide, as against Mr. Stratman, even if he is deemed to be in privity with parties, issues now central to his APA case, and/or failed to fully litigate issues now central to his APA case. The "law of the case" doctrine thus demands a denial of this motion filed anew by Leisnoi.
3. The Court finds that Mr. Stratman has, by participating in proceedings involving these parties before the Department of Interior, satisfied any exhaustion requirement that he may have been subject to, under the facts, circumstances, and procedural history of this matter.

DONE and ORDERED entered this ____ day of _____, 2007.

The Honorable James K. Singleton
U.S. District Court Judge